

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	Case No. 3:18-cr-59
	:	
v.	:	
	:	Judge Thomas M. Rose
JOHNNIE LEE BONNER, III,	:	
	:	
Defendant.	:	

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**ENTRY AND ORDER DENYING DEFENDANT’S SECOND SUPPLEMENTAL  
SUBMISSION IN SUPPORT OF MOTION FOR COMPASSIONATE RELEASE  
(DOC. NO. 54) AND DENYING DEFENDANT’S MOTION TO EXTEND TIME  
FOR FILING NOTICE OF APPEAL (DOC. NO. 55)**

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This case is before the Court on two motions filed by Johnnie Lee Bonner, III (“Bonner”). The first is a document titled “Johnnie Lee Bonner, III’s Second Supplemental Submission in Support of Motion for Compassionate Release” (Doc. No. 54) (the “Motion to Supplement”). In the Motion to Supplement, Bonner “moves this Court for an order adding [attached medical records] to its consideration of the Motion of [sic] Compassionate Release (Dkt. 46 and Dkt. 50).” (Doc. No. 54 at PageID 335.) The Motion to Supplement states that Bonner’s “[c]ounsel recently received Mr. Bonner’s records showing that he now suffers from diabetes.” (*Id.*)

The Court denies the Motion to Supplement. Bonner filed a motion for compassionate release on March 29, 2021 (Doc. No. 46), and his appointed counsel filed a supplemental memorandum in support of that motion on May 3, 2021 (Doc. No. 50). On June 24, 2021, the Court denied the motion for compassionate release. (Doc. No. 51.) On August 4, 2021, Bonner filed the Motion to Supplement. Bonner offers no legal support for his request that the Court, after having denied a motion, essentially reconsider that denial by taking into consideration evidence

not previously presented to the Court. He also offers no legal support for a request to supplement the record for appeal with that additional evidence. Although the Court denies Bonner's request, it does note that, if appropriate, Bonner may file another motion for compassionate release.

Bonner's second motion is titled "Johnnie Lee Bonner, III's Motion to Extend Time for Filing Notice of Appeal" (Doc. No. 55) (the "Third Motion to Extend"). Bonner "moves this Court for an order pursuant to Fed. App. R. 4(b)(4) extending the time for filing a notice of appeal from the order denying his motion for compassionate release (R. 51) by 10 days after this Court rules on the supplemental information, Dkt. 54." (Doc. No. 55 at PageID 354.)

The Court denies the Third Motion to Extend. Federal Rule of Appellate Procedure 4(b)(4) states:

**Motion for Extension of Time.** Upon a finding of excusable neglect or good cause, the district court may—before or after the time has expired, with or without motion and notice—extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule 4(b).

Federal Rule of Appellate Procedure 4(b)(1)(A) states: "In a criminal case, a defendant's notice of appeal must be filed in the district court within 14 days after the later of: (i) the entry of either the judgment or the order being appealed; or (ii) the filing of the government's notice of appeal."

Here, as mentioned above, the Court entered its order denying the motion for compassionate release on June 24, 2021. (Doc. No. 51.) Thus, under Federal Rule of Appellate Procedure 4(b)(4), the maximum amount of time that this Court can extend the time to file a notice of appeal is August 7, 2021. However, the Court already extended the time to that maximum when it granted Bonner's second motion for extension of time (Doc. No. 53). (07/22/2021 Notation Order ("Pursuant to Federal Rule of Appellate Procedure 4(b)(4), the Court extends the time for Bonner to file a notice of appeal through August 7, 2021 with respect to the Court's June 24, 2021 Entry and Order 51 that denied Bonner's Motion for Compassionate Release 46".))

For the reasons stated above, the Court **DENIES** both Johnnie Lee Bonner, III's Second Supplemental Submission in Support of Motion for Compassionate Release (Doc. No. 54) and Johnnie Lee Bonner, III's Motion to Extend Time for Filing Notice of Appeal (Doc. No. 55). Again, the Court notes that, if appropriate, Bonner may file another motion for compassionate release, but he must ensure that he has complied with all requirements for doing so—including showing that he has fulfilled 18 U.S.C. § 3582(c)(1)(A)'s exhaustion requirement. *See United States v. Alam*, 960 F.3d 831 (6th Cir. 2020).

**DONE** and **ORDERED** in Dayton, Ohio, this Thursday, August 5, 2021.

s/Thomas M. Rose

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE